

REMARKS

Claims 16-42 are pending and claims 16-38 and 42 are rejected. Claim 16 is amended hereinabove and claim 21 is cancelled. Support for amended 16 can be found in the specification on page 6, lines 11-13 and on the subject matter of claim 21. No new matter has been added.

In the Office Action, the Examiner has maintained the rejection of the claims as follows:

1. Claims 16, 20-21, 23 and 38 are rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over EP 1,074,243 (Pantini, 2000, hereinafter "Pantini") in view of U.S. Patent No. 6,066,311 (Cheetam, 2000, hereinafter "Cheetam");
2. Claims 17-19 and 22-24 are rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over Pantini and Cheetam and further in view of Schliemann-Willers as evidenced by Fomblin HC/P2-1000;
3. Claims 25-30 are rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over Pantini, Cheetam, Schliemann-Willers and as evidenced by Fomblin HC/P2-1000 and further in view of U.S. Patent No. 5,945,090 (hereinafter "Randall");
4. Claims 35-36 are rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over Pantini, Cheetam, Schliemann-Willers and Randall, as evidenced by Fomblin HC/P2-1000 and further in view of U.S. Patent No. 6,015,548; and
5. Claims 31-34 and 37 are also rejected under 35 U.S.C. § 103(a) for allegedly being unpatentable over Pantini, Cheetam, Schliemann-Willers and Randall, as evidenced by Fomblin HC/P2-1000 and further in view of U.S. Patent No. 6,007,796.

Applicant respectfully traverses these rejections.

I. Rejection over Pantini in view of Cheetam

Applicant wishes to incorporate by reference the response filed on May 2, 2011 and adding the following additional remarks.

The presently claimed invention is directed to a cosmetic or dermatological composition comprising polyphenols and a total amount of between 0.2 and 1% of perfluoropolyether phosphate (*e.g.*, page 4, lines 10-16 and page 6, lines 11-13).

Pantini does not disclose Applicant's invention. Pantini only discloses a composition containing perfluoropolyether phosphates, which are diluted with carriers and excipients (*e.g.*, page 2, paragraph [0001]). Pantini is completely silent with regard to polyphenols.

Cheetam does not make up for Pantini's deficiencies. Cheetam only provides for a method for producing caffeic acid which might be used in sunscreen compositions for its capacity to absorb uVA and UVB (*e.g.*, the abstract).

The Examiner's has taken the position that it would have been *prima facie* obvious to a person of ordinary skill in the art at the time the invention was made to have added 2% caffeic acid to the sunscreen of Pantini because Cheetam teaches that the caffeic acid polyphenol is an advantageous UV absorber than may be used in sunscreen (*e.g.* pages 5 and 6 of the Final Office Action issued on February 3, 2011).

However, Pantini describes a sun cream composition with an amount of perfluoropolyether phosphate way beyond the amount presently claimed. In other words, the presently claimed invention is directed to composition in which the perfluoropolyether phosphates represents between 0.2 and 1% of the weight of the total composition, while Pantini discloses amounts of at least 3% (*e.g.*, page 10-11, example 17).

As an initial matter, the presently claimed invention discloses an advantage which is not described in the prior art. That is, that the perfluoropolyether phosphates stabilize the oxidative degradation of the phenols contained in the cosmetic composition. On the contrary, none of the cited references appreciates this advantage. Pantini does not consider adding phenols to the compositions described therein, while Cheetam, which does not describe perfluoropolyether phosphates, discloses phenols only in the context of components capable of absorbing uvA and uvB light in sunscreen compositions. Therefore, since Pantini already discloses sun cream compositions with UV screening substances (*e.g.*, page 10 paragraph [0077]), one skilled in the art would not find a motivation to combine the two cited references to arrive at the presently claimed subject matter.

Moreover, even if there was a motivation to combine these two references, which there is not, still the combination does not teach all of the presently claimed limitations because the amount of perfluoropolyether phosphates presently claimed is much less than what Pantini discloses. Therefore, one skilled in the art would not have a reasonable expectation of success that the amount of perfluoropolyether phosphates disclosed by Pantini could be effective in stabilizing polyphenols against oxidative degradation. Thus, it is respectfully submitted that for all of the reasons discussed above, the combination of the cited references would not have rendered obvious the presently claimed subject matter to one skilled in the art.

Accordingly, Applicant respectfully requests that the rejection of claims 16, 20-21, 23 and 38 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

II. Additional Rejections

Claim 16 is the only independent claims. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988). Claim 16 is patentable over the combination of Pantini and Cheetam for the reasons set forth above. Accordingly, as claim 16 is not rejected, and therefore is patentable, over the additional references' combinations, it is respectfully submitted that all of the other claims are patentable as well.

No extra fee is believed due. If there is any additional fee, the Director is authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 02-2275.

Pursuant to 37 CFR § 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to the above-mentioned deposit account.

An early and favorable action on the merits is earnestly solicited.

Dated: December 6, 2011

Respectfully submitted,

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